

April 10, 1992

MEMORANDUM

SUBJECT: Background Materials on Canyon Uranium Mine,
Kaibab National Forest, Arizona

FROM: Jacqueline Wyland, Chief
Office of Federal Activities (E-3)

THRU: Deanna M. Wieman, Director
Office of External Affairs (E-1)

TO: Daniel W. McGovern
Regional Administrator (E-1)

As you requested, we are preparing to brief you on the Canyon Uranium Mine at 10 a.m., Wednesday, April 15 in preparation for your visit to Arizona April 20. Attached are an issue paper and various background materials on the Canyon Uranium Mine for your meeting with the U.S. Forest Service and the Havasupai Tribe.

On March 30, 1992 the US Supreme Court denied the Havasupai Tribe's final appeal to halt or delay the development of the mine, which is approximately 35 miles southeast and upstream from the Havasupai Reservation. There appear to be no judicial or administrative barriers blocking the project.

The Energy Fuels Nuclear, Inc. uranium mine was the subject of a Forest Service EIS in 1985-86; EPA was a cooperating agency on this EIS. OFA is investigating potential federal environmental regulatory tools which may be applicable, specifically, RCRA's small quantity generator requirements and SARA's Title III reporting requirements [Emergency Planning and Community Right-to-Know Act].

I hope the attached materials are useful to you. Please call us if you need additional information: Jacqueline at 4-1584 or David Tomsovic at 4-1569.

Attachments

HAVASUPAI NATION, ARIZONA - ENERGY FUELS NUCLEAR URANIUM MINE

BACKGROUND: Energy Fuels Nuclear (EFN) obtained Forest Service approval to mine uranium in the Kaibab National Forest, Arizona. According to Forest Service, development on the mine is on hold. The Canyon Mine will disturb 17 acres for a 1400 foot shaft and surface facilities; ore milling will take place in Utah. The site is in the Cataract Creek drainage area, a tributary of Havasu Creek. The Havasupai oppose the mine on environmental grounds (tribal lands are downstream) as well as a belief that the mine will harm sacred religious lands.

In 1985 EPA provided written scoping comments on the Forest Service's Notice of Intent to prepare the Draft EIS. Due to our National Pollutant Discharge Elimination System (NPDES) permit role, EPA was a cooperating agency on the EIS. The NPDES permit application was for potential discharges of groundwater that could be encountered in the mine. In 1986 we commented on the Draft EIS, rating it Environmental Concerns -Insufficient Information. We asked that the Final EIS provide more information on NPDES and NESHAPS permit requirements; we also commented on groundwater impacts. In 1986 we reviewed the Final EIS, which adequately addressed our concerns, and the Forest Service issued its Record of Decision. Later in 1986 EFN withdrew its NPDES permit application, stating that there would be no discharge to waters of the US and thus no Clean Water Act jurisdiction. In 1987 EPA issued a NESHAPS "authority to construct" permit for the mine.

STATUS: Construction: Forest Service said that ENF has halted development at the site, although the Forest Service's stay on construction pending the conclusion of court appeals has been lifted. Some project features are completed. Appeals: The US Supreme Court denied the Tribe's petition for writ of certiorari, 3/30/92, which appealed the 9th US Circuit Court of Appeals' ruling upholding Forest Service's NEPA documentation (especially groundwater protection issues) and dismissing the Tribe's religious freedom objections. NPDES: There is no current NPDES permit on file or permit application pending. The WMD has not identified the need for an NPDES permit based upon EFN's commitment to no discharge and EPA's independent technical conclusion that there is no reasonable likelihood of any discharge to waters of the US. NESHAPS: Canyon Mine is subject to the radionuclide NESHAPS Subpart B, which establishes annual emission limits and annual reporting requirements. Related Projects: Forest Service says the Navajo and Hualapai Tribes, in contrast to the Havasupai, are interested in pursuing uranium mining on their lands.

NEXT STEP: There are no EPA actions planned at this time for the Canyon Mine. However, Region IX's Office of Radiation and Indoor Air plans to inspect one or more Arizona uranium mines in 1992.

CONTACT: Deanna M. Wieman, Director, OEA. Revised: 4/10/92.

BACKGROUND MATERIALS FOR DANIEL W. MCGOVERN
MEETINGS WITH HAVASUPAI TRIBE & U.S. FOREST SERVICE
CANYON URANIUM MINE, ARIZONA
APRIL 1992

- 1) Correspondence from U.S. EPA to U.S. Forest Service (USFS) on Canyon Uranium Mine NEPA documents
 - a) Comment letter on Preliminary DEIS, 12/5/85
 - b) Comment letter on DEIS, 5/1/86
 - c) Letter on FEIS (no comments/adequate document), 11/10/86
- 2) Correspondence from Havasupai Tribe and their attorney to USFS on the Canyon Uranium Mine DEIS
 - a) Attorney's letter to USFS on DEIS, 5/12/86
 - b) Tribe's followup letter on DEIS to USFS, 8/4/86
- 3) Project summary from Canyon Mine FEIS, 8/86
- 4) USFS Record of Decision for Canyon Mine Project, 9/26/86
- 5) Federal court rulings on the Canyon Mine Project
 - a) Havasupai Tribe v. U.S., District Court of Arizona, 4/18/90 (752 F.Supp. 1471)
 - b) Havasupai Tribe v. Robertson, Chief, Forest Service, U.S. Court of Appeals for the 9th Circuit, 8/26/91 (943 F.2d 32). Certiorari denied, 3/30/92.
- 6) Press clips on Canyon Mine Project
 - a) Arizona Daily Star - Tucson
 - b) Arizona Republic - Phoenix
 - c) New York Times

Prepared: 4/10/92.